

etc.

In the Queen's Bench.

APPEAL SIDE.

LOUIS ISAAC LAROCQUE,

Appellant;

AND

GRACE RUSSELL,

Respondent.

RESPONDENT'S FACTUM.

Filed,

A. & W. ROBERTSON,
Atty. for Respondent.

P

ch.

San Juan de los Rios

PROVINCE
District

PROVINCE OF CANADA,
District of Montreal.

IN THE QUEEN'S BENCH,

APPEAL SIDE.

LOUIS ISAAC LAROCQUE,

Appellant;

GRACE RUSSELL,

Respondent.

RESPONDENT'S CASE.

The Appellant in this cause became the *Adjudicataire* on the 10th March, 1858, of six of the lots of land seized in this cause, the aggregate purchase money of the lots bought by the Appellant being four thousand, one hundred and sixteen dollars. On the 23rd April following, the Sheriff made his return to that effect, mentioning, as is usual, the price of each lot, and that the *Adjudicataire* had failed to pay the price or any part of it. On the 28th April, the Plaintiff moved for a Rule for *folle enchère, nisi cause*, on the 17th May then next, and on that day the *Adjudicataire* appeared by Counsel and resisted the Rule which, by Judgment of the 20th May, was declared absolute. From this Judgment the present Appeal has been instituted, manifestly for delay. The ground of objection relied on by the Appellant was that in the motion for the *folle enchère*, the aggregate amount of the purchase was given. But this was no legal reason for setting aside the Rule; and it is submitted that the Appeal cannot be maintained.

A. & W. ROBERTSON,
Attys. for Respondent.

MONTREAL, 28th October, 1858.

APPENDIX.

COPY OF JUDGMENT.

The 20th May, 1858.

PRESENT:

The Honorable Mr. Justice SMITH.

"The Court having heard the Plaintiff and the said Louis Isaac Larocque, purchaser, *mis en cause*, upon the Rule obtained by the said Plaintiff against the said Louis Isaac Larocque, purchaser, *mis en cause*, on the twenty-sixth day of April last past, examined the proceedings, and having deliberated, doth declare the said Rule absolute. Inasmuch as it appears by the Return of the Sheriff of this District to the writ of *alias venditioni exponas de terris* in this said cause issued, bearing date on the 28th day of January, one thousand eight hundred and fifty-eight, that he, the said Sheriff, on the twenty-second day of February last past, in pursuance of the said writ and of his advertisement on this behalf, did proceed to sell, and did sell and adjudge, to the said Louis Isaac Larocque, for the price and consideration of one thousand, one hundred and sixteen dollars, certain lands and tenements in his said advertisement, *firstly, secondly, thirdly, fourthly, fifthly and sixthly* mentioned, and therein and in the Schedule A annexed to the motion in this cause, made and filed, described as follows, to wit: (Then follows a description of the several lots.) And inasmuch as it appears also by the said Return of the said Sheriff, that the said Louis Isaac Larocque hath not paid to the said Sheriff the said price or consideration of four thousand, one hundred and sixteen dollars, or any part thereof, the Court doth order, for the reasons aforesaid, that the said lands and tenements be re-sold at the *folle enchère* of the said Louis Isaac Larocque, and at the risk, responsibility, costs and charges of the said Louis Isaac Larocque, and that a writ of *pluries venditioni exponas* do issue in due course of law for the re-sale of the said lands and tenements at the *folle enchère* of the said Louis Isaac Larocque, as aforesaid."

MONK, COFFIN & PAPINEAU,

P. S. C.